

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

ADRIAN KHILLAWAN,	:	
	:	
Petitioner	:	CIVIL ACTION NO. 3:23-613
	:	
v.	:	(JUDGE MANNION)
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, <i>et al.</i>,	:	
	:	
Respondents	:	
	:	

ORDER

Pending before the court is the report of United States Magistrate Judge Martin C. Carlson which recommends that the instant habeas petition brought pursuant to 28 U.S.C. §2254 be dismissed without prejudice. (Doc. 11). No objections have been filed to Judge Carlson's report. Upon review, the report and recommendation will be adopted in its entirety as the opinion of the court.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. Fed.R.Civ.P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing

Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

The petitioner has brought the instant action challenging his state court convictions in Pike County, Pennsylvania. In reviewing the instant petition and the filings contained in the state court matters, Judge Carlson has determined that the petitioner has failed to exhaust either his direct appeal or his post-conviction relief appellate rights. Judge Carlson therefore recommends that the instant action be dismissed so that the petitioner can return to state court and exhaust his claims.

Neither party has filed objections to Judge Carlson's report. The court has reviewed the record and Judge Carlson's report and finds no clear error. Moreover, the court agrees with the sound reasoning which led Judge Carlson to his conclusions. Therefore, the court will adopt the report and recommendation in its entirety as the opinion of the court.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Carlson (Doc. 11) is
ADOPTED IN ITS ENTIRETY AS THE OPINION OF THE COURT.**
- (2) The instant action (Doc. 1) is DISMISSED WITHOUT PREJUDICE.**
- (3) The Clerk of Court is directed to CLOSE THIS CASE.**

s/ Malachy E. Mannion
MALACHY E. MANNION
United States District Judge

DATE: February 12, 2024

23-613-01